

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Anne M. Pianca

Application No.: 10/635,091

Confirmation No.: 6980

Filed: August 6, 2003

Art Unit: 3762

For: INSERTION STYLET

Examiner: M. W. Kahelin

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In the restriction requirement set forth in the Office Action mailed September 10, 2008, the Examiner has required restriction between:

- I. Claims 1-13, drawn to a stylet having an outer covering set over an inner core, classified in class 604, subclass 164.01.
- II. Claims 14-21, drawn to a stylet having variable material properties and a blunt tip, classified in class 604, subclass 170.02.

The Applicant elects Group I (claims 1-13) with traverse. First, the characterization of Group II is not commensurate with the scope of claims 1-14. Claim 14 does not require a blunt tip.

Second, the Restriction Requirement argues that Groups I and II “are distinct if they do not overlap in scope and are not obvious variants....” The Applicant respectfully submits that these two Groups do overlap in scope. A stylet may have “an outer covering set over an inner core”

(Group I) and still have “variable material properties and a blunt tip” (Group II). These two descriptions are not mutually exclusive and, therefore, contrary to the assertion in the Restriction Requirement, the two Groups do overlap in scope.

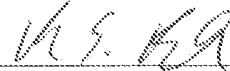
Third, at least claims 2 and 11 of Group I also recite “variable material properties” of Group II.

Finally, the Applicant respectfully submits that claims 1-21 have been examined in five Office Actions prior to the present Restriction Requirement. It is not the best use of PTO and Applicant resources to require restriction after such substantial prosecution in the present matter.

Accordingly, the Applicant respectfully requests that Groups I and II be rejoined and considered together.

Dated: October 7, 2008

Respectfully submitted,

By 

Bruce E. Black, Ph.D.

Registration No.: 41,622

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(206) 262-8908

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant